

REMARKS

Claims 12, 22-28 and 30 are currently pending in the present Application, with claims 13-21, 29 and 31-32 withdrawn pursuant to the Requirement mailed July 8, 2003.

Summary of the Pending Objections/Rejections:

The following objections and rejections are currently pending in the Office Action mailed October 22, 2003:

Drawings: The drawings stand objected to for failing to show the “detection device” recited in claim 12, and the “gear selection device having a defined rest position” recited in claim 27.

Rejections Under § 112, First Paragraph: Claims 12, 22-28 and 30 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement by failing to describe how the recited accident or swerving event are detected. Claim 27 stands rejected under § 112, first paragraph for failing to show how the recited gear selection device is directed out of the rest position in order to select a driving position desired by the driver and then automatically return.

Rejections Under § 112, Second Paragraph: Claims 12, 22-28 and 30 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite for lack of clarity as to what element is the recited “detection device that detects one of an accident ...” *i.e.*, speed and yaw rate sensors are disclosed, but no accident or swerving detectors. In addition, the terms “specific value” and “specific thresholds” are objected to as unclear.

Rejections Under § 102(b): Claims 12, 22, 24 and 26-27 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,077,190 to Tabata, *et al.* (“Tabata”).

Rejections Under § 103(a): Claims 28 and 30 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Tabata.

Applicant’s Amendments:

In response to the foregoing, the Applicants are amending the Application as follows:

Independent claim 12 has been amended to more clearly recite that the detection device “detects a parameter of one of an accident and swerving event of the vehicle and generates a signal corresponding signal to the parameter,” and that the analyzing device evaluates whether the detected signal “reaches a specific value or exceeds a specific threshold corresponding to presence of the accident or swerving event.”

A drawing change is proposed to include an element representing the gear selection device recited in claim 27. The specification has been amended to identify the element number corresponding to this element.

The Applicants note that all the foregoing amendments reflect material disclosed in the original specification, and thus no new matter has been entered.

Response to the Specific Objections and Rejections:

Drawings: Responsive to the drawing objection concerning illustration of the “detection device” recited in claim 12, elements 22, 24, 26, 28 and 30 are identified in the specification as sensors detecting wheel speed and yaw rate

(sensor 30). As amended, claim 12 recites that its detection device detects a parameter of an accident or swerving event, and generates a signal corresponding to the parameter. The Applicants submit that because the illustrated speed sensors and yaw rate sensor correspond to the claimed detection device, the drawings are satisfactory under 37 C.F.R. § 1.83(a).

Responsive to the objection concerning illustration of the “gear selection device having a defined rest position” recited in claim 27, the Applicants have proposed a drawing change to Fig. 1 (shown in red ink on the enclosed sheet) to include an element 32 representative of the gear selection device discussed in specification paragraph [0017]. A new paragraph [0034] has been added to specifically identify the element as element number 32, and to show its input being provided to transmission control 16. The Applicant respectfully submits that these amendments, which do not add new matter, are sufficient for the purposes of 37 C.F.R. § 1.83(a), as the details of implementation of such a gear selection device are well known in the art. For example, gear selection devices which allow a driver to select an upshift or downshift of an automatic transmission using a shift lever which automatically returns to a center rest position have been commercially available for a number of years (for example, the “STEPTRONIC”(tm) system employed in some BMW vehicles).

In view of the foregoing, the Applicants respectfully request the pending drawing objections be withdrawn.

Rejections Under § 112, First Paragraph: Responsive to the § 112, first paragraph, rejection of claims 12, 22-28 and 30, the Applicants have amended

claim 12 as noted above to more clearly recite how the accident or swerving event is detected, *i.e.*, the detection device detecting a parameter associated with an accident or swerving event and generating a corresponding signal to be processed by the analyzing device. Because the processing of such signals is well known in the art, the Applicants respectfully submit the enablement requirement of § 112 has been met.

Responsive to the § 112, first paragraph, rejection of claim 27, the Applicants note the foregoing proposed drawing change and specification amendments, and the comments above regarding the well-known nature of gear selection devices which return to a rest position after selection of a desired driving position. The Applicants respectfully submit that, in the presence of this material, the gear selection device recited in claim 27 is sufficiently enabled to permit one of ordinary skill in the art to practice the invention without undue experimentation as required by § 112.

In view of the foregoing, the Applicants respectfully request the pending § 112, first paragraph rejections be withdrawn.

Rejections Under § 112, Second Paragraph: Responsive to the 35 U.S.C. § 112, second paragraph, rejections of claims 12, 22-28 and 30 with respect to identification of what element is the recited “detection device that detects one of an accident ...,” the Applicants respectfully submit the foregoing amendments and remarks have clarified the nature of the detection devices and their respective signals, and that the “detection device” limitation of claim 12 is sufficiently definite under § 112, second paragraph. Similarly, the foregoing

amendments make clear that the terms “specific value” and “specific thresholds” refer to values or thresholds of the detected signal which correspond to an accident or swerving event, and thus these terms are also sufficiently definite under § 112, second paragraph. The Applicants therefore respectfully request the pending § 112, second paragraph, rejections be withdrawn.

Rejections Under §§ 102(b), 103(a): The Applicants respectfully traverse the rejection of claims 12, 22, 24 and 26-27 as anticipated by Tabata under § 102(b), and the rejection of claims 28 and 30 as unpatentable under § 103(a) over Tabata, on the grounds that Tabata is not an effective reference against the present application.

The present Application is a U.S. National Phase application filed in the U.S. on May 1, 2002. Under 35 U.S.C. § 363, the present Application has the effect of a U.S. national application for patent filed on the international filing date of its international application. International Application PCT/EP00/01766, to which priority is claimed under 35 U.S.C. § 119 in the Applicants’ Declaration, was filed on March 1, 2000.

Under § 102(b), in order to be an effective reference against the present Application, a U.S. Patent must have issued more than one year prior to the U.S. application date. In the present case, a U.S. Patent would have to have been issued prior to March 1, 1999 to be an effective reference. The Tabata reference issued on June 30, 2000, and thus is not an effective reference against the present application under § 102(b).

Notwithstanding the foregoing, the Applicants respectfully submit that even if applied under § 102(e), Tabata does not disclose or suggest the present invention, as noted below.

The present invention is directed to a device for increasing vehicle security, wherein, when sensors and a control unit determine an accident or swerving event is occurring, an electronic transmission control is caused to “interrupt a positive engagement of the automatic transmission.” *See, e.g.*, Claim 12, Specification ¶¶ [0012]-[0016] (transmission shifted into neutral to take power away from the drive wheels, or into park so that further vehicle rolling after a rollover accident is prevented).

In contrast, the Tabata reference discloses a device that *maintains* power flow through an automatic transmission at all times.

Tabata is cited as disclosing an analyzing device 82 which causes an electronic transmission control 78 to interrupt a positive engagement of an automatic transmission 14 when a specific value or threshold is reached. October 22, 2003 Office Action at 5. Review of this reference, however, reveals that the Tabata “vehicle stability controller” 82 never commands interruption of positive engagement of drive power through transmission controller 78.

In Tabata’s first embodiment, for example, if vehicle stability controller 82’s “turning stability control means” 160 is activated to control vehicle stability, a “turning control detecting means” 172 disables a “learning compensation means 164,” a monitoring device which, in normal vehicle operation, aids in improving transmission shifting performance. Tabata at 14:28-56, 18:32-19:41;

20:9-17.

Similarly, the remaining Tabata embodiments 2-7 discuss variations of the Tabata apparatus, *but there is never a disclosure or suggestion of interrupting power to the drive wheels in the manner of the present invention.* In the second embodiment, transmission shifting is controlled to *maintain* the desired drive force DF. Tabata at 23:5-26. In the third embodiment, transmission shifting is inhibited, *i.e.*, power flow to the drive wheels is maintained. *Id.* at 24:22-44. In the fourth embodiment, power continues to be transferred under either a normal shifting control or an override mode that inhibits shifting out of the current gear. *Id.* at 24:56-25:6. In the fifth embodiment, a lock-up clutch 24 between the engine and the transmission torque converter 12 is controlled between locked and unlocked conditions to prevent driveline shocks, but power continues to be transmitted from torque converter 12 to the drive wheels. *Id.* at 27:31-67; 28:56-59. Finally, in the sixth and seventh embodiments, transmission operation is maintained (“adapted to hold the automatic transmission 14 in a predetermined position”) or the transmission is up-shifted to reduce (but not eliminate) the drive force. *Id.* at 29:16-56; 30:48-31:33.

Thus, there is no disclosure or suggestion of the present invention’s “interrupt[ing] a positive engagement of the automatic transmission” in Tabata, and therefore this reference neither anticipates or renders unpatentable independent claim 12 or its dependent claims 22-28 and 30.

In view of the foregoing, the Applicants respectfully request the pending § 102(b) and § 103(a) rejections be withdrawn.

amendments make clear that the terms “specific value” and “specific thresholds” refer to values or thresholds of the detected signal which correspond to an accident or swerving event, and thus these terms are also sufficiently definite under § 112, second paragraph. The Applicants therefore respectfully request the pending § 112, second paragraph, rejections be withdrawn.

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CONCLUSION

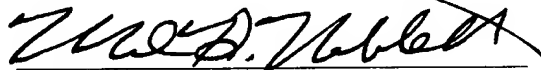
The Applicants respectfully submit that claims 12, 22-28 and 30 are in allowable form. Early and favorable consideration and issuance of a Notice of Allowance for these claims is respectfully requested. In addition, as noted by the Examiner in the October 22, 2003 Office Action, claims 12 and 26-28 are generic to both species. In view of the allowability of these claims, the Applicants respectfully request the Restriction Requirement be withdrawn and the non-elected claims also be allowed.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #080437/50010US).

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Respectfully submitted,



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